



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

L. Preston Bryant, Jr.
Secretary of Natural Resources

NORTHERN VIRGINIA REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703) 583-3800 Fax (703) 583-3801
www.deq.virginia.gov

David K. Paylor
Director

~~Jeffery A. Steers~~
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

Savvis Communications Corporation
DEQ Registration No. 73160

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1316.C, 10.1-1307.D and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and Savvis Communications Corporation, for the purpose of resolving certain alleged violations of the SAPCB regulations as specified in SECTION C of this Order.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. "Facility" means Savvis Communications Inc. (hereafter referred to as "Savvis").
6. "Order" means this document, also known as a Consent Order.
6. "Savvis Communications Corporation," herein referred to as "Savvis," means the facility located at 45901 and 45845 Nokes Boulevard, Sterling, Virginia 20166.
7. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
8. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
9. "VAC" means Virginia Administrative Code.

SECTION C: Findings of Fact

1. Savvis Communications Corporation has five diesel engine-powered electrical generators rated at 1250 kilowatts output (located at 45901 Nokes Boulevard); and six diesel engine-powered electrical generators rated at 2000 kilowatts output (located at 45845 Nokes Boulevard), making it subject to State Air Pollution Control Board regulations as a minor source. A State Operating Permit was issued February 10, 2004, to Cable & Wireless, the former owners of the facility.
2. On May 8, 2007, Dennis Batts, Air Compliance Manager received a phone call from Savvis to inquire about the status of their permit because the generator had been delivered. On May 9, 2007, DEQ Northern Virginia Regional Office (NVRO) performed an on-site compliance evaluation of the facility and observed construction in progress on a Caterpillar Model 3512 generator (serial # - G6J00183), rated at 1500 kW. During the inspection, DEQ staff was informed that the generator had been delivered on May 4, 2007, and construction/installation began on May 7, 2007. The generator had not been previously permitted.
3. Condition 1 of the facility's February 10, 2004, NSR permit states that, "Except as specified in this permit, the permitted facility is to be constructed and operated as represented in the permit application dated August 27, 2003, including amendment information dated October 27, 2003; November 10, 2003; and January 23, 2004. Any changes in the permit application specifications or any existing facilities which alter the impact of the facility on air quality may require a

permit. Failure to obtain such a permit prior to construction may result in an enforcement action. (9 VAC 5-50-390 and 9 VAC 5-80-1210D)”

4. On April 3, 2007, Savvis submitted a Form 7 Air Permit Application for the new emergency generator as a Minor Permit Amendment in accordance with 9 VAC 5-80-980. One June 1, 2007, Savvis submitted additional information to DEQ in response to a May 17, 2007, request letter from DEQ. A draft permit has been sent to the facility and DEQ Air Permitting staff is waiting on comments from the facility to finalize and issue the permit.
5. A Notice of Violation (NOV) was sent to the facility on June 1, 2007, addressing the above noted apparent violation. DEQ and Savvis convened a conference call on June 1, 2007, to discuss the violation and corresponding NOV. Savvis confirmed that they had installed the generator before issuance of the permit and that they believed that since they had applied for the permit, that installation of the generator was then allowed. 9 VAC 5-80-980(G)(1) states that “the owner may make the change proposed in the Minor Permit Amendment request immediately after the complete request is filed;” however, the permit application was not complete at that time. Savvis then responded with a letter from its consultant, Stearns & Wheler, stating that Savvis has applied for a permit for the generator and would not operate the generator until a permit has been issued by DEQ.
6. DEQ personnel met with the facility on July 12, 2007, in order to discuss the NOV and draft Consent Order. At that time, Savvis also discussed the new permit with DEQ Air Permitting staff, including steps necessary to complete stack testing of the new generator.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders Savvis Communications Corporation, and Savvis Communications Corporation agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Savvis Communications Corporation, and Savvis Communications Corporation voluntarily agrees, to pay a civil charge in the amount of Sixteen-thousand and one-hundred dollars (\$16,100.00). The civil charge is due within 30 days of the effective date of the Order. Payment shall be made by check payable to the “Treasurer of Virginia”, delivered to:

Receipts Control
Department of Environmental Quality
P.O. Box 1104
Richmond, Virginia 23218

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Savvis Communications Corporation, for good cause shown by Savvis Communications Corporation, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to the Savvis Communications Corporation facility by DEQ on September 13, 2006. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Savvis Communications Corporation neither admits nor denies the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Savvis Communications Corporation consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Savvis Communications Corporation declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Savvis Communications Corporation to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Savvis Communications Corporation shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Savvis Communications Corporation shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Savvis Communications Corporation shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
- a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Savvis Communications Corporation. Notwithstanding the foregoing, Savvis Communications Corporation agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Savvis Communications Corporation. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Savvis Communications Corporation from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Savvis Communications Corporation voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of August 20, 2007.

Thomas A. Wane

Thomas A. Faha, NVRO Regional Director
Department of Environmental Quality

Savvis Communications Corporation voluntarily agrees to the issuance of this Order.

By:

Date:

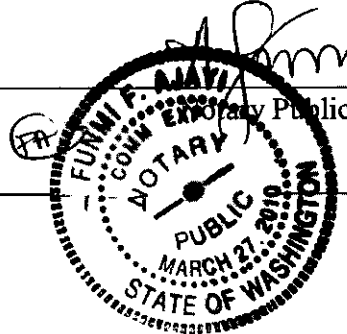
Commonwealth of Virginia

City/County of KING

The foregoing document was signed and acknowledged before me this 6th day of Aug, 2007, by Jeffrey D Wile, who is
(Month) (Name)

VP of operations for the Savvis Communications Corporation facility, on behalf of the
(Title)
Facility.

My commission expires:



3-27-2010

Appendix A
Schedule of Compliance

Savvis Communications Corporation shall perform the following actions:

1. Submit a timely stack test protocol to DEQ Air Compliance staff, set up a meeting to discuss the stack test protocol, and complete the stack test and reporting in a timely manner in accordance with the terms and conditions of the new Permit.
2. Within 90 days of the effective date of this Order, Savvis shall develop and implement an environmental management system (EMS) plan to include provisions for conducting and documenting inspections and maintenance of permitted equipment as well as all necessary recordkeeping requirements. Savvis shall submit the EMS Implementation Plan to DEQ for review. After submittal of the plan, this compliance step shall be deemed complete and deviations from the EMS shall not be considered violations of the Consent Order.